

Debt Eligible for Pre-Recovery Waiver
Report No. 99-12, August 3, 1999

This report presents the results of a joint project of the Office of Inspector General (OIG) and the Bureau of Fiscal Operations? Debt Recovery Division (DRD) to assess the extent to which individuals may have been billed for debt that would have satisfied the criteria for pre-recovery waiver.

Background

The Railroad Retirement Board (RRB) is an independent agency in the executive branch of the federal government. The agency's mission is to pay unemployment, sickness, retirement and survivor benefits as mandated by the Railroad Retirement Act (RRA) and the Railroad Unemployment Insurance Act (RUIA). The agency is headed by a three member board ("the Board").

Under the RRA and the RUIA regulations, the Board may waive recovery of debt when the debtor is without fault in causing the debt and in the judgement of the Board, "recovery would be contrary to the purpose of the Act or would be against equity or good conscience." The Board has provided for an appeals process through which debtors, once collection has begun, may request relief from recovery.

In April 1993, the Board authorized a special type of waiver to be applied prior to billing and without request from the debtor or "pre-recovery." In doing so, the Board reinstated a practice that had been suspended the previous September. Potential pre-recovery waiver cases that had not been processed at that time were held until the Board had reviewed the issue and established new procedures for implementation.

Pre-recovery waiver was limited to debts resulting from an overpayment that had continued for more than four years. If agency personnel could establish, from the existing record, that the debtor was without fault in causing the overpayment, the debt could be waived.

This policy permitted adjudicative units in the Office of Programs and its predecessor organizations to identify debts for waiver without instituting collection. Debts identified for pre-recovery waiver were sent to DRD for concurrence and final processing.

The Board eliminated the use of pre-recovery waivers in 1996.

In its Review of Waiver Processing (Audit Report #99-02), dated October 15, 1998, the OIG identified three debts, eligible for pre-recovery waiver, that were established for collection by the program unit. All three debts were later waived. The auditors recommended that:

The DRD review its outstanding debtor files to determine the extent to which individuals may be repaying debt that would have satisfied the criteria for

pre-recovery waiver. The DRD should report its findings to the Board with a recommendation on whether the RRB should waive the remaining debt.

The Bureau of Fiscal Operations disagreed with the recommendation. However, the Board agreed with the auditors' recommendation for review and further required "that not just the remaining debt, but the original overpayment amount, should be reviewed for waiver consideration."

The Board instructed DRD to work in conjunction with the OIG to identify the universe of files that would require review in order to make the recommended determination. They further instructed DRD to use random sampling to estimate the outcome of such a review.

This project was initiated at the request of the Board. Fieldwork was conducted during February through May 1999 by DRD and OIG personnel at RRB headquarters in Chicago, Illinois.

Scope and Methodology

Our review and analysis was limited to debt currently on the Program Accounts Receivable (PAR) system. PAR is the mainframe computer application that supports the debt collection process.

Closed debt is periodically cleared from PAR and archived to storage media. All debt closed as of September 30, 1994 has been removed from the system and no debt that had been reduced to zero as of that date was included in this study.

The objective of this joint review was to determine the extent to which individuals may have been billed for debt that would have satisfied the criteria for pre-recovery waiver. Since the OIG has previously made recommendations concerning this matter, the formulation of recommendations for corrective action was not one of the objectives. Accordingly, we have made no further recommendations regarding this matter.

In order to achieve this objective, we:

- obtained records of debt established on the PAR during fiscal year (FY) 1992 through FY 1996;

- analyzed the PAR records to identify those debts most likely to have had eligibility for pre-recovery waiver;

- reviewed all debt exceeding \$25,000 for pre-recovery waiver eligibility that is being or has been collected;

- used random sampling to assess the occurrence rate of debt eligible for pre-recovery waiver that is being or has been collected;

--performed a limited review of debt with minimal repayment.

FINDINGS AND RECOMMENDATIONS

We reviewed PAR system data and identified 106,189 debts established during FYs 1992-1996. We performed additional analysis and eliminated debts to which pre-recovery waiver would not apply. We determined that the PAR system presently includes 13,311 debts that would require detailed examination in order to assess the extent to which individuals may have been billed for debt that meets the criteria for pre-recovery waiver. Seventy-nine percent of these debts have been waived, cancelled or fully collected.

Based on our testing and analysis, we estimate that, if all 13,311 items requiring detailed examination were reviewed, the agency would identify approximately 135 (1%) debts eligible for pre-recovery waiver that had been subject to collection.

During our detailed review of 727 debts, we identified four cases in which an eligible debt was not waived prior to the issuance of a bill. All four debts have been paid in full; two of the four debtors are now deceased.

Our analysis of the PAR database and identification of populations for testing is presented in Appendix I to this report. The outcome of the case review process is summarized in detail in Appendix II. The facts and circumstances of the exception cases are discussed in Appendix III.

Detailed Review of all Debt over \$25,000

In order to ensure that the impact of the non-application of pre-recovery waiver on large debtors was fully assessed, we reviewed all debts greater than \$25,000.

There were 424 debts over \$25,000 in the population of 13,311 debts requiring evaluation. We identified only one case, out of 424 total, that would have been impacted by the application of pre-recovery waiver. That debt has been repaid in full; both the debtor and spouse are now deceased.

Twenty-five percent (107/424) of the debts in this category had been waived or cancelled and the debt was closed without collection. In 45% of these cases (192/424), the current review determined that the debtor was not "without fault" and therefore was not eligible for waiver of any kind. In 28% (117/424), the debtor had requested waiver and had been denied; in some instances, the debtors had pursued their appeal rights to the Bureau of Hearings and Appeals or the Board.

Debts \$500 to \$25,000 Actively Being Repaid

We used random sampling to estimate the overall occurrence rate of debts eligible for pre-

recovery waiver that were billed for recovery. We reviewed a random sample of 303 cases selected from 12,642 debts valued between \$500 and \$25,000 with an active collection history. We considered any debt that had been reduced by more than \$500 to be "active" for purposes of this project.

We reviewed these debts and identified three cases in which a debt eligible for pre-recovery waiver had been subject to collection. All three debts have been collected in full; in one case, both the debtor and his spouse are now deceased. The average amount of these three debts is \$1,089.

Based on the outcome of the sample review, we estimate that approximately one percent of the 12,642 debts in this category are cases in which pre-recovery waiver, if applied, would have altered the outcome of the debt collection process.

Summaries of the three debts identified by our review are presented in Appendix III to this report.

Debts \$500 to \$25,000 With Minimal Repayment To-Date

We performed a limited review of debts originally established in amounts between \$500 and \$25,000 that had been reduced by less than \$500 through January 1999. There were only 419 such cases and we observed nothing that would materially impact our previous assessment concerning the applicability of pre-recovery waiver on debt subject to recovery.

Over 40% of the debts in this category were denied a waiver. These debts are frequently owed by individuals who have no current entitlement to RRA benefits from which to withhold repayment. In some cases, the debtor's benefits are being withheld but they are so very small in amount that there is little impact on the balance of debt.

Our review of debt in this category included analytical review and a detailed review of a small non-random sample of individual debt. Based on our findings, we expect that a review of this debt would disclose unidentified pre-recovery waiver cases at a rate no higher than that of the previously discussed random sample.

Resolution of the Prior Audit Recommendation

As a result of its prior review (Review of Waiver Processing, Report 99-02, October 15, 1998), the OIG reported that:

In three of fifty cases reviewed, 6% of the sample, we noted that the cases satisfied the criteria for a pre-recovery waiver.

That review was limited to the 262 debts waived by DRD in 1996 excluding items under \$500.

The present study included a universe of 106,189 debts established during FYs 1992 to 1996 currently on the PAR system. We estimate that the occurrence rate of debts eligible for pre-recovery waiver but subject to collection to be less than two-tenths of one percent of that population.

The foregoing estimate is an extension of the results of tests of 13,311 debts requiring detailed analysis in order to make a determination concerning the pre-recovery waiver status of the debt. Our testing revealed that approximately one percent of the 13,311 debts billed for recovery was eligible for pre-recovery waiver.

The findings presented in this report, when transmitted to the Board, will satisfy the recommendation of the prior audit (see page 2) that led the OIG and DRD to collaborate on this project.

Management's Comments

This study was conducted jointly by OIG and DRD personnel. The Chief Financial Officer has formally concurred with the findings as presented in this report and his comments have been included as Appendix IV to this report.

APPENDIX I - Population Analysis

We analyzed debt on the Program Accounts Receivable (PAR) system as of January 1999 to identify cases that were eligible for pre-recovery waiver but were never waived, cancelled or written off. We limited our study to cases established during FYs 1992 to 1996.

Our review and analysis was limited to debt currently on the PAR system. Closed debt is periodically cleared from PAR and archived to storage media. All debt closed as of September 30, 1994 has been removed from the system and no debt that had been reduced to zero as of that date was included in this study.

We identified a total of 106,189 debts that were established between FY 1992 and FY 1996. We eliminated any debt that was waived, cancelled or written-off. We also removed from consideration any debt that had been caused by circumstances that would typically have precluded application of pre-recovery waiver.

DEBT CURRENTLY MAINTAINED ON THE PAR SYSTEM

Debt Established FY 1992 through FY 1996	106,189
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DEBT NOT REQUIRING DETAILED EVALUATION

Debts that were...

due to the death of the annuitant	(56,463)	
written off by agency	(1,925)	
due to automatic SS adjustment	(19,953)	
waived	(2,357)	
due to the cashing of both an original and duplicate check	(863)	
originally billed at \$500 or less	(11,317)	<u>(92,878)</u>

DEBT REQUIRING DETAILED EVALUATION

13,311

We analyzed the remaining debts and allocated them into categories for review based on the amount billed and repaid, waived or cancelled to-date. Below is a summary of that allocation.

I. Debts greater than \$25,000 or Debts repaid, cancelled or	424
II. Debt repaid, cancelled or waived in an amount between \$500 and \$25,000.	12,642

We reviewed a sample of 303 debts randomly selected from this category.

III. Debt originally billed at \$500 to \$25,000 that has been repaid, cancelled or waived in the amount of \$500 or less.	419
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We performed detailed analysis of the PAR records for these debts.

TOTAL	13,485
Debts included in both I and II above (see below).	(174)
	<u>13,311</u>

The randomly selected statistical sample did not provide sufficient information concerning large debts. As a result, we expanded our review procedures to include all debt originally billed over \$25,000. There were 174 such debts that had been repaid in an amount between \$500 and \$25,000 that were included in both categories I and II.

APPENDIX II - Results of the Detailed Case Review

The following chart presents the results of our detailed review of debt. We reviewed a random sample of 303 items selected from 12,642 debts that had been reduced by more than \$500 through January 1999. We expanded our review to include all debt over \$25,000.

Pre-recovery waiver is not applicable because the debt

--was cancelled	1	6
--resulted from the voluntary revocation of an application	1	1
--resulted from a routine adjustment and was collected from an accrual	1	1

Debt does not meet the requirements for pre-recovery waiver

--Debtor was not without fault in causing the overpayment	89	192
--Debt did not accrue over four years	194	5

Debtor requested waiver

--Waiver was granted	14	101
--Waiver was denied	0	117*
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Pre-recovery waiver is not an issue	300	423
A debt eligible for pre-recovery waiver was collected**	3	1

Total number of cases requiring evaluation that were reviewed	303	424
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*These 117 cases passed through the regular waiver process and were reviewed by DRD (or its predecessor organization) at that time. For purpose s of this project, they were considered to have been correctly evaluated against regular as well as pre-recovery waiver standards.

**These four cases identified as exceptions never passed through the regular waiver process. These cases are discussed in detail in Appendix III.

Appendix III - Exception Cases Identified by the Detailed Review of Debts

Case #1 Overpayment Amount: \$ 1,219.73

The agency was aware that the retired railroad employee had been receiving Social Security benefits and had reduced the Tier 1 portion of his RRA annuity accordingly. However, the agency had not made adjustments for periodic changes in the Social Security rate. The rate was corrected in February 1994 and an overpayment was assessed for the period February 1984 through January 1994.

The annuitant did not request review or waiver. The debt was being repaid by partial withholding from his monthly annuity. The annuitant died in August 1997 leaving a balance of \$179.73. The balance was paid after his death.

The annuitant's wife pre-deceased him and there are no survivors in pay status.

CASE #2 Overpayment Amount: \$ 573.00

The agency was aware that the retired railroad employee had been receiving Social Security benefits and had reduced the Tier 1 portion of his RRA annuity accordingly. However, the agency had not made adjustments for periodic changes in the Social Security rate. The rate was corrected in December 1993 and an overpayment was assessed for the period January 1987 through November 1993.

The annuitant did not request review or waiver. The debt was repaid by partial withholding from his monthly annuity. The annuitant is in current pay status.

CASE #3 Overpayment Amount: \$1,475.40

The employee and spouse annuitants were overpaid as a result of payment errors related to Vested Dual Benefits and Tier II annuities during 1984 to 1991. The agency sought recovery for both overpayments from the employee annuitant because the corrected spouse annuity rate was zero.

The annuitant did not request review or waiver. The debt was repaid by partial withholding from his monthly annuity. The employee annuitant is in current pay status; the spouse's annuity has been suspended.

CASE #4 Overpayment Amount: \$42,511.67

The spouse annuitant had properly disclosed her entitlement to Social Security benefits in her application for a railroad retirement annuity dated June 19, 1975. In October 1992, the spouse advised the district office of her Social Security entitlement; they advised the Bureau of Retirement Claims, Retirement Post-Adjudicative Section (BRC-RPS), now part of the Office of Programs.

The annuity rate was corrected in October 1992. The district office delivered the overpayment letter in March 1993. Because of the large size of the debt, overpayment letters were released to both the employee and spouse annuitants advising them that both were responsible for repayment.

The annuitants did not respond to the overpayment letters. They did not request review or waiver. As a result, the RRB suspended both annuities, effective June 1993. In November 1993, the employee annuitant requested that he be subject to partial withholding. In February 1994, the agency reinstated his annuity with partial withholding. The spouse's annuity remained suspended.

The debt was fully collected and both annuitants were reinstated effective July 1997.

The employee annuitant died in January 1998; his widow died in June 1998.